

NATIONAL DEFENSE UNIVERSITY  
NATIONAL WAR COLLEGE

**THE U.S.-VIETNAM TRADE AGREEMENT: THE INTEREST GROUP  
SUCCESS NICHE**

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5603  
THE INTERAGENCY PROCESS  
SEMINAR "I"

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| Report Documentation Page  |                                    |                                     |                            | Form Approved<br>OMB No. 0704-0188                  |                                 |
|--|------------------------------------|-------------------------------------|----------------------------|---|---------------------------------|
| Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. |                                    |                                     |                            |   |                                 |
| 1. REPORT DATE<br><b>2002</b>  |                                    | 2. REPORT TYPE                      |                            | 3. DATES COVERED<br><b>00-00-2002 to 00-00-2002</b> |                                 |
| 4. TITLE AND SUBTITLE<br><b>The U.S.-Vietnam Trade Agreement: The Interest Group Success Niche</b>   |                                    |                                     |                            | 5a. CONTRACT NUMBER                                 |                                 |
|  |                                    |                                     |                            | 5b. GRANT NUMBER                                    |                                 |
|  |                                    |                                     |                            | 5c. PROGRAM ELEMENT NUMBER                          |                                 |
| 6. AUTHOR(S)   |                                    |                                     |                            | 5d. PROJECT NUMBER                                  |                                 |
|  |                                    |                                     |                            | 5e. TASK NUMBER                                     |                                 |
|  |                                    |                                     |                            | 5f. WORK UNIT NUMBER                                |                                 |
| 7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)<br><b>National War College, 300 5th Avenue, Fort Lesley J. McNair, Washington, DC, 20319-6000</b>   |                                    |                                     |                            | 8. PERFORMING ORGANIZATION REPORT NUMBER            |                                 |
| 9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)  |                                    |                                     |                            | 10. SPONSOR/MONITOR'S ACRONYM(S)                    |                                 |
|  |                                    |                                     |                            | 11. SPONSOR/MONITOR'S REPORT NUMBER(S)              |                                 |
| 12. DISTRIBUTION/AVAILABILITY STATEMENT<br><b>Approved for public release; distribution unlimited</b>  |                                    |                                     |                            |   |                                 |
| 13. SUPPLEMENTARY NOTES  |                                    |                                     |                            |   |                                 |
| 14. ABSTRACT<br><b>see report</b>  |                                    |                                     |                            |   |                                 |
| 15. SUBJECT TERMS  |                                    |                                     |                            |   |                                 |
| 16. SECURITY CLASSIFICATION OF:  |                                    |                                     | 17. LIMITATION OF ABSTRACT | 18. NUMBER OF PAGES<br><b>13</b>                    | 19a. NAME OF RESPONSIBLE PERSON |
| a. REPORT<br><b>unclassified</b>   | b. ABSTRACT<br><b>unclassified</b> | c. THIS PAGE<br><b>unclassified</b> |                            |   |                                 |

# **THE U.S.-VIETNAM TRADE AGREEMENT: THE INTEREST GROUP SUCCESS NICHE**

## **INTRODUCTION**

The December 10, 2001 implementation of the U.S.- Vietnam Bilateral Trade Agreement (BTA) was the culmination of a decade-long process to fully normalize diplomatic ties between Washington and Hanoi. Missteps by both sides, however, characterized the process that led to this historic accord. There was political hesitation, certainly, in both capitals to sign on to this sweeping agreement, but the greater difficulty lay within the U.S. Administration itself. Without clear direction or leadership from the White House or senior State Department officials, the U.S. Embassy was able to delay the agreement by forcing an “all or nothing” approach toward the BTA. In this policy vacuum, a small non-governmental organization -- with the support of a miniscule business contingent, and a few U.S. senators -- provided the impetus that helped the two sides reach a successful conclusion. The story of the Bilateral Trade Agreement - which symbolically ended one of our nation’s most traumatic wars - is one of a moribund interagency process that ultimately was energized by a mere handful of players outside of the formal bureaucratic process.

## **THE NORMALIZATION PROCESS**

At the end of the Vietnam War in 1975, the United States halted virtually all of its economic interchange with the Socialist Republic of Vietnam (SRV). Not only did Washington continue to deny Most-Favored Nation status to the SRV (which it had imposed on the communist-controlled areas of North Vietnam in 1951), but it also stopped bilateral humanitarian aid, opposed financial assistance from international financial institutions, and banned Americans' travel to Vietnam, as well as trade with Hanoi.

The two sides began their normalization process in 1991, when the Bush Administration presented its "road map" for restoration of full relations to Hanoi. In 1992, Bush eased the trade embargo to permit commercial sales responding to basic human needs, permitted telecommunications links, and allowed projects to go forward between U.S. and Vietnamese NGO's and non-profit groups. Based on steps that the Vietnamese took to improve cooperation on accounting for prisoners of war and missing-in-action personnel from the war, President Clinton ordered the full lifting of the trade embargo against the SRV in 1994. The U.S. formally resumed diplomatic relations with Vietnam 1995 and opened an embassy in Hanoi. In 1998 (as well as in each subsequent year through 2001), Clinton granted Hanoi a waiver from the requirements of the Jackson-Vanik amendment, which prohibits the White House from normalizing commercial relations with selected socialist countries if they do not meet stipulated requirements regarding the freedom of emigration. (Indeed, even with the

implementation of the BTA, it could be argued that full normalization of the bilateral commercial relationship with Vietnam will not be complete until the Congress terminates the application of the Jackson-Vanik amendment to Vietnam, thereby granting Hanoi Permanent NTR status, similar to last year's vote on PNTR for China.)

### **THE BILATERAL TRADE AGREEMENT**

Under U.S. law, two conditions must be met for Vietnam to receive Normal Trade Relations status: 1) Vietnam must sign, and Congress must approve, a bilateral commercial agreement; and 2) the President must either find that Vietnam is in compliance with the requirements of Jackson-Vanik or annually waive those requirements, indicating that Hanoi is making sufficient progress on the issue.<sup>1</sup> The U.S. Trade Representative (USTR) commenced negotiations on the bilateral trade agreement in earnest in early 1996. In negotiating BTA's with Jackson-Vanik countries, the USTR has pursued a policy of breaking new ground with each successive agreement. A simple illustration of this is to compare the 1979 trade accord with China, which was less than ten pages in length, to the 2001 Vietnamese BTA, which runs more than 130 pages. Following three years of off-and-on talks, the U.S. and Vietnam reached an agreement in principle in July 1999 on the BTA, and the two chief negotiators signed a memorandum of understanding. Even though only 95 percent of the BTA had been finished, the U.S. hailed the understanding as the completion of talks. Details in the area of trade in

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<sup>1</sup> "Fact Sheet: Background on the U.S.-Vietnam Bilateral Trade Agreement," The White House, June 8, 2001

services (specifically telecommunications), nevertheless, still required additional negotiation before final agreement. (As this paper details, this failure to fully complete the negotiations led to misinterpretations by each side of the other's intent with regard to the agreement, and resulted in internal discord on the U.S. side that threatened the BTA.) The final agreement implemented in December 2001, extends NTR status and lowers U.S. tariff rates on Vietnamese exports from an average of 40 percent to less than 3 percent. In exchange, the SRV will undertake a wide range of market-liberalization measures, including extending NTR treatment to U.S. exports, easing barriers on U.S. services (including telecommunications and banking), reducing tariffs on goods, and providing further incentives and protections for U.S. direct investment.<sup>2</sup> As the USTR General Counsel stated last year,<sup>3</sup> the agreement commits Vietnam to "badly needed reform" that will integrate it into the global economy and make it more prosperous, open, and transparent, as well as create "new and significant opportunities for U.S. firms and persons" doing business in Vietnam.

### **ADRIFT IN HANOI AND WASHINGTON**

With clear, delineable benefits deriving to both sides from the agreement, the question is what led to the delay between the agreement in principle in July 1999 to final implementation in December 2001. CRS ascribes Vietnamese hesitancy to sign to its "consensus-style of decision-making and the weakness of the country's current leadership... The BTA is the most extensive agreement Vietnam has ever negotiated, and

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<sup>2</sup> Mark E. Manyin, "The Vietnam-U.S. Bilateral Trade Agreement," Congressional Research Service Report for Congress, (June 20, 2001): page 8

<sup>3</sup> Peter B. Davidson, USTR General Counsel, Testimony on Vietnam Trade Agreement, U.S. Senate Committee on Finance, June 26, 2001

the assent of virtually all officials involved in implementing the deal was required before Hanoi would take such a radical step.”<sup>4</sup> SRV conservatives were concerned that the agreement would undermine the government’s monopoly on economic and political systems, and erode overall government control and legitimacy. Indeed, on November 29, 2001, the Communist Party stated in an editorial in its official daily newspaper Nhan Dan that “Many forces in the United States have not yet given up their hostile attitude toward Vietnam. They are still haunted by the war and want to capitalize on the bilateral trade agreement to derail Vietnam from its socialist orientation.”<sup>5</sup> In addition to a conservative-reformist internal debate, the BTA also threatens vested economic interests within the SRV, given that Hanoi must abandon its system of state-owned enterprises (SOE’s). Chief among these interests is the People’s Army of Vietnam, which, according to most estimates, generated in excess of \$600 million in revenue -- more than 60 percent of its annual budget -- from its SOE’s in 1998.<sup>6</sup>

In the U.S., however, ideological rifts and vested interests played virtually no role in domestic consideration of the accord. Although members of Congress had voiced some opposition to the BTA, primarily over Vietnam’s human rights record, it was limited and decreasing in number each year, as witnessed in the annual Jackson-Vanik votes. In 1998, 163 House members opposed the waiver; that number had dwindled to 91 in the year 2000. Moreover, the U.S. business community largely supported the agreement, with the exception of the textile and catfish sectors. Even most of the one-

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<sup>4</sup> Manyin, p. 17

<sup>5</sup> David Thurber, “Vietnam’s Communist Party Says U.S. Groups Plan to Use Trade Pact Against Socialism,” Associated Press, November 29, 2001

<sup>6</sup> Huw Watkin, “Proud Military Slips Into Decline as Aid Dries Up,” South China Morning Post, July 7, 1999, p. 5

million-plus Vietnamese-American community passively supported the agreement, particularly since it meant expanded business opportunities where many members of the community could bring their unique linguistic and cultural skills to bear in a potentially lucrative market.

Where did the key impediment lie, therefore, in pushing forward implementation of the BTA? Virginia Foote, director of the U.S.-Vietnam Trade Council (USVTC), states that it lay with the U.S. Embassy in Hanoi. She notes that the Embassy, rather than assume the common role of “clientitus” in pushing Washington to move forward with the accord, opposed renegotiation in 1999 and 2000. Foote believes the Embassy failed to properly analyze the reasons for Vietnamese delay and the need to accommodate the SRV’s needs in the remaining 5 percent of the BTA that remained to be negotiated.<sup>7</sup> As she described in a personal interview on January 10, 2002, this likely stemmed from the lack of access Embassy personnel had to key SRV decision-makers, as well as the isolation the Embassy suffered within the Hanoi diplomatic community following the 1999 agreement in principle. Lack of access to key SRV personnel was no surprise; given the history of the relationship and the closed nature of the regime, high-ranking officials were reluctant to meet with official Americans. With regard to the diplomatic community, the reasons were more complex. Until the 1999 agreement in principle, the Embassy had been the de facto leader of the diplomatic community, enjoying the prestige of being the newest and most significant player on Hanoi’s landscape. When the U.S. announced the agreement in principle in July 1999, however, it undermined the predictions of more seasoned European diplomats (many of whom had embassies in

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<sup>7</sup> Virginia Foote, interview by author, Washington, D.C., January 10, 2002



Hanoi for decades) that the USTR would never achieve its ambitious goals of negotiating such a broad-based BTA. As the SRV delayed signature of the BTA, though, and agitated publicly for completing the negotiations on the remaining telecommunications aspects of the accord, the Embassy came under criticism from all quarters. Hanoi government officials used every opportunity to remind American diplomats of the need to reopen negotiations. European and other diplomats scoffed at the agreement in principle, constantly pointing out to their U.S. colleagues that they had been naïve. In this climate, according to Foote, the Embassy had no policy allies in Hanoi, and became isolated and combative.

U.S. Ambassador Pete Peterson argued, both in public statements and in private messages to Washington, that the agreement in principle signaled completion of the BTA, and that to reopen negotiations on the remaining portions would lead to renegotiation of the entire agreement. Indeed, although the USTR in late 1999 began to indicate to the Embassy its willingness to return to Hanoi to resume the negotiations, the Embassy strongly argued against such talks. Secretary Madeline Albright's visit to Vietnam in September 1999 also damaged BTA efforts, according to Foote. Sec. Albright failed to mention the trade agreement in any of her meetings with Hanoi officials, even though her visit was designed in part to move forward the relationship on the heels of the agreement in principle. Moreover, she fueled the anti-U.S. paranoia of SRV conservatives when she off-handedly noted to the Prime Minister the possibility that Vietnam would go the way of the former communist regime in her native Czechoslovakia as it integrated globally. Finally, there were few, if any, official Americans outside of the Embassy who had the background or interest in explaining SRV concerns and working to resolve the remaining

disputed portion of the BTA. Given the recent establishment of diplomatic relations, the Department of State's Bureau for East Asian and Pacific Affairs, including the Office of Burma, Cambodia, Laos, Thailand and Vietnam, had no officials who had served in Vietnam after 1975 and who would therefore have understood the inner workings of Vietnamese bureaucracy. The National Security Council's Southeast Asian expert, as well as the Pentagon's officials on the Joint Staff and Office of the Secretary, also had limited exposure to Vietnam. In short, there were no officials in the Administration with sufficient knowledge of, or interest in, the bilateral relationship to be a vigorous advocate of the BTA.

As the Embassy hardened its stance against the Vietnamese position on the BTA, American diplomats in Hanoi found themselves increasingly distant from their SRV interlocutors. The Ambassador's public comments and speeches continued to scold the Vietnamese, reminding them that they were missing an opportunity to increase trade and hence prosperity. Embassy and Consulate General personnel distributed fact sheets extolling the virtues of the BTA to Vietnamese interlocutors, both in the Hanoi and Ho Chi Minh City, as well as during official visits throughout the country. Conservative elements within the SRV ran a counter-campaign against the Embassy's aggressive information efforts, publicly denouncing the trade accord and the intentions of the U.S. in supporting it. These atmospherics negatively affected the desire and ability of the Embassy to work with the rest of the Administration to advocate any level of compromise or renewed negotiations with the SRV.

## **A STRONG ADVOCATE EMERGES IN WASHINGTON**

To be sure, strong advocates in Washington pushed for normalizing the relationship with Vietnam by concluding a BTA. In Congress, Senators McCain, John Kerry, Hagel, and Baucus frequently requested the Administration to forward an agreement to the Hill. Numerous Congressional delegations, including one led by Representatives Gephardt and Rangel, visited Vietnam and publicly stated their support for the accord. Several prominent companies in the business community, including General Electric, Nike, and insurance and oil groups, lobbied on behalf of the agreement. Nevertheless, none of these business or congressional groups were able to negotiate directly with Hanoi, and, in light of strong U.S. Embassy opposition, USTR would not agree to Hanoi's request restart talks on fifteen issues remaining to be settled (primarily related to telecommunications) in the BTA.<sup>8</sup> Virginia Foote described this unusual standoff, stating that as the Vietnamese resolved their internal divisions of reformers versus conservatives and became more technical in their approach to concluding the BTA by specifically limiting the number and scope of issues they wanted to negotiate, the U.S. became more vocal and political, ascribing Hanoi's delay to irrational foot-dragging and domestic politics.

The U.S.-Vietnam Trade Council is the interest group that finally broke this logjam. With the reluctant backing of the Embassy (as described by Director Foote), and a grant from the U.S. Agency for International Development (AID), the USVTC commenced

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<sup>8</sup> Virginia Foote, interview with author

talks with the Vietnamese government in April 2000. Trade Council negotiators already had participated in many of the earlier BTA rounds, and knew both the Vietnamese and USTR negotiators well. Virginia Foote and Trade Council lawyer Dan Price reinvigorated the talks over the next several months, and confirmed that the Vietnamese did not intend to reopen every facet of the BTA to renegotiations. By taking this relatively simple step of meeting with the Vietnamese and staking out the limited parameters of the BTA that Hanoi needed to fine-tune, the Trade Council successfully jumpstarted the talks. The Congressional Research Service describes the ultimate difference in the BTA that came about because of this last set of negotiations: the U.S. agreed to a concession in line with the recent Chinese WTO accession talks that lowered potential U.S. equity in telecommunication enterprises from 51 percent to 49 percent, but in exchange for a significantly shorter phase-in period. The two sides negotiated a similar investment cap (and commensurately shorter phase-in period) for the insurance sector, as well.<sup>9</sup>The two sides negotiated

## **CONCLUSION**

The ultimate success of the BTA negotiations demonstrates the importance that a well-connected, informed and responsive interest group can play in the formation of foreign policy, particularly when the issue is near the periphery of U.S. interests and attention. The internal divisions within the Vietnamese government meant that Hanoi would find it difficult to muster Politburo support for the agreement, much less be a lobbying force on behalf of the BTA. On the contrary, the SRV's domestic political

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<sup>9</sup> Manyin, pp. 15-16

needs required it to criticize publicly both the agreement and Washington's motives behind it. In the absence of this bilateral support from Hanoi, a traditional U.S. Embassy response would have been to step in and interpret for Washington the political difficulties faced by the Hanoi government, pin down the scope of requested adjustments in the BTA, and work to move the negotiations back on track. Instead, because of its own increasing isolation from SRV interlocutors, the Embassy strongly advocated no new negotiations, and a "take it or leave it" approach to the agreement in principle.

The USVTC was the only actor in either the U.S. or Vietnam qualified to step into this stalemate to restart the trade talks. Through its AID-contracted work with the USTR-led delegation from the beginning of the BTA negotiations, it established a knowledge base and level of confidence on both sides that was unique. The SRV viewed the USVTC as a reliable representative of USG positions, and hence a good faith negotiating partner. The Embassy, for its part, viewed the USVTC as a non-governmental actor and ultimately, therefore, was able to acquiesce to the Council's resumption of negotiations with the SRV on an exploratory basis. Finally, since almost no high-level USG officials paid attention to the BTA, the Trade Council was able to step into its negotiating role without interagency opposition. Although the unusual nature of reestablishing relations with Vietnam likely make this a model that cannot be repeated easily in other areas of foreign policy, it demonstrates both the unique role interest groups can play in policy formation, as well as the flexibility of the USG policy apparatus.

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